

## SECTION 2: BY-LAWS AND GOVERNANCE

### 2.1 CONSTITUTION



#### 1. NAME

**1.1.1.** The name of the Charitable Incorporated Organisation (“the organisation”) is the International Sport Federation for Athletes with an Intellectual Impairment.

**1.1.2.** The Organisation may operate on a day to day basis as ‘Virtus.

#### 2. NATIONAL LOCATION OF PRINCIPAL OFFICE

**2.1.1.** The principal office of the Organisation is in England.

#### 3. LANGUAGE

**3.1.1.** The official language of the Organisation is English,

#### 4. OBJECTS

**4.1.1.** The objects of the Organisation are:

- (i) To relieve persons with an intellectual impairment by encouraging and facilitating their participation in sporting activities and assisting in the provision of training, facilities and equipment for this purpose.
- (ii) The promotion of social inclusion among persons with an intellectual impairment who are socially excluded from society, or parts of society, by developing activities to promote participation in sports activities at all levels and to recognise the importance of sport for the personal development and integration of such persons in to society.<sup>1</sup>

#### 5. POWERS

**5.1.1.** The Organisation has power to do anything which is calculated to further its objects or is conducive or incidental to doing so. In particular, the Organisation’s powers include power to:

- (i) borrow money and to charge the whole or any part of its property as security for the repayment of the money borrowed. The Organisation must comply as appropriate with sections 124 and 125 of the Charities Act 2011 if it wishes to mortgage land;
- (ii) buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- (iii) sell, lease or otherwise dispose of all or any part of the property belonging to the Organisation. In exercising this power, the Organisation must comply as appropriate with sections 117 and 119-123 of the Charities Act 2011;

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- (iv) employ and remunerate such staff as are necessary for carrying out the work of the Organisation. The Organisation may employ or remunerate a charity trustee only to the extent that it is permitted to do so by Article 7 (Benefits and payments to the Governing Board and connected persons) and provided it complies with the conditions of those clauses;
- (v) deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of the Organisation to be held in the name of a nominee, in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;

#### 6. APPLICATION OF INCOME AND PROPERTY

- 6.1.1.** The income and property of the Organisation must be applied solely towards the promotion of the objects.
- 6.1.2.** Governing Board members (the trustees) are entitled to be reimbursed from the property of the Organisation or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the Organisation.
- 6.1.3.** Governing Board members may benefit from trustee indemnity insurance cover purchased at the Organisation's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
- 6.1.4.** None of the income or property of the Organisation may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the Organisation. This does not prevent a member (who is not also a Governing Board member) receiving:
  - (i) a benefit from the Organisation as a beneficiary of the Organisation;
  - (ii) reasonable and proper remuneration for any goods or services supplied to the Organisation.
- 6.1.5.** Nothing in this clause shall prevent a trustee or connected person receiving any benefit or payment which is authorised by Article 7.

#### 7. BENEFITS AND PAYMENTS TO THE GOVERNING BOARD AND CONNECTED PERSONS

##### 7.1. General provisions

- 7.1.1.** No Governing Board member or connected person may:
  - (i) buy or receive any goods or services from the Organisation on terms preferential to those applicable to members of the public;

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- (ii) sell goods, services, or any interest in land to the Organisation;
- (iii) be employed by, or receive any remuneration from, the Organisation;
- (iv) receive any other financial benefit from the Organisation;

**7.1.2.** unless the payment or benefit is permitted by sub-clause (7.2), or authorised by the court or the Charity Commission (“the Commission”). In this clause, a “financial benefit” means a benefit, direct or indirect, which is either money or has a monetary value.

#### **7.2. Scope and powers permitting trustees’ or connected persons’ benefits**

**7.2.1.** A Governing Board member or connected person may receive a benefit from the Organisation as a beneficiary provided that it is available generally to the beneficiaries of the Organisation

**7.2.2.** A Governing Board member or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the Organisation where that is permitted in accordance with, and subject to the conditions in, section 185 to 188 of the Charities Act 2011.

**7.2.3.** Subject to sub-clause 7.3 a Governing Board member or connected person may provide the Organisation with goods that are not supplied in connection with services provided to the Organisation by the charity trustee or connected person.

**7.2.4.** A Governing Board member or connected person may receive interest on money lent to the Organisation at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).

**7.2.5.** A Governing Board or connected person may receive rent for premises let by the trustee or connected person to the Organisation. The amount of the rent and the other terms of the lease must be reasonable and proper. The Board member concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.

**7.2.6.** A Governing Board member or connected person may take part in the normal trading and fundraising activities of the Organisation on the same terms as members of the public.

#### **7.3. Payment for supply of goods only – controls**

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**7.3.1.** The Organisation and its Governing Board members may only rely upon the authority provided by sub-clause 7.2.3 of this clause if each of the following conditions is satisfied:

- (i) The amount or maximum amount of the payment for the goods is set out in a written agreement between the Organisation and the charity trustee or connected person supplying the goods (“the supplier”).
- (ii) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
- (iii) The other board members are satisfied that it is in the best interests of the Organisation to contract with the supplier rather than with someone who is not a charity trustee or connected person. In reaching that decision the Governing Board must balance the advantage of contracting with a board member or connected person against the disadvantages of doing so.
- (iv) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the Organisation.
- (v) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of trustees is present at the meeting.
- (vi) The reason for their decision is recorded by the trustees in the minute book.
- (vii) A majority of the Governing Board then in office are not in receipt of remuneration or payments authorised by clause 6.

**7.4. In sub-clauses 7.2 and 7.3 of this clause:**

**7.4.1.** “the Organisation” includes any company in which the Organisation:

- (i) holds more than 50% of the shares; or
- (ii) controls more than 50% of the voting rights attached to the shares; or
- (iii) has the right to appoint one or more directors to the board of the company;

**7.4.2.** “connected person” includes any person within the definition set out in Article 20 (Interpretation);

## 8. CONFLICTS OF INTEREST AND CONFLICTS OF LOYALTY

**8.1.** Governing Board members must:

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**8.1.1.** declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the Organisation or in any transaction or arrangement entered into by the Organisation which has not previously been declared; and

**8.1.2.** absent himself or herself from any discussions of the Governing Board in which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of the Organisation and any personal interest (including but not limited to any financial interest).

**8.2.** Any Governing Board member absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the Governing Board on the matter.

### **9. LIABILITY OF GOVERNING BOARD AND MEMBERS TO CONTRIBUTE TO THE ASSETS OF THE ORGANISATION IF IT IS WOUND UP**

**9.1.** If the Organisation is wound up, the Governing Board and members of the Organisation have no liability to contribute to its assets and no personal responsibility for settling its debts and liabilities.

### **10. MEMBERSHIP**

**10.1.1.** Membership shall be open to the following categories:

- (i) Voting
  - a. National Member Organisations
  - b. VIRTUS Regions
  - c. International Federations of Sport
- (ii) Non-voting
  - a. National Federations of Sport
  - b. Individual Members

**10.1.2.** A Member may be an organisation which is not incorporated.

### **10.2. National Member Organisations**

**10.2.1.** Membership is open to any recognised national organisation representing sport for persons with intellectual impairment in their respective countries and who, by applying for membership, has indicated its agreement to become a member

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and acceptance of the duty of members set out in sub-clause 10.11 of this clause.

**10.2.2.** The above-mentioned organisations shall fulfil the following criteria:

- (i) Only one organisation per country, according to the principle of one nation one vote, shall be admitted into membership.
- (ii) the sole or a principle purpose of the organisation shall be the promotion and support of sport for persons with intellectual disability;
- (iii) in its country the organisation shall represent a substantial part of persons with intellectual disability who are interested in and/or are active in sports on any level;
- (iv) the organisations constitution shall provide for the participation of its members in the governing of the organisation and in the establishment of its policies;
- (v) the organisation shall not limit its activities, or participation therein, for reasons of race, colour, sex or sexual inclination, language, religion, disability or political ideology nor shall it discriminate on any other ground;
- (vi) the organisation shall be competent to fulfil the obligations of membership, including the payment of the annual subscription.

### **10.3. VIRTUS Regions**

**10.3.1.** For the purposes of competition and governance, VIRTUS recognises five regional continental areas:

- (i) VIRTUS Africa
- (ii) VIRTUS Americas
- (iii) VIRTUS Asia
- (iv) VIRTUS Europe
- (v) VIRTUS Oceania

**10.3.2.** Regions may establish committee structures subject to the following requirements:

- (i) the organisation's committee must consist of five or more persons

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- (ii) membership of the Region is open to all national organisations in membership with VIRTUS belonging to that Region
- (iii) the acts and proceedings of the Region must be brought to the attention of the Governing Board
- (iv) the Region must operate open, democratic and transparent policies and procedures.
- (v) Regions will operate in accordance with the policies and procedures established by VIRTUS
- (vi) the Governing Board shall from time to time review the arrangements which they have made for the delegation of their powers and may at any time alter those terms and conditions, or revoke the recognition.

#### 10.4. International Federations

**10.4.1.** Membership is open to any recognised International Sport Federation who make a commitment to sport for persons with intellectual impairment in their respective sports and who, by applying for membership, has indicated its agreement to become a member and acceptance of the duty of members set out in sub-clause 10.4.2 of this clause.

**10.4.2.** The above-mentioned organisations shall fulfil the following criteria:

- (i) only one organisation per sport shall be admitted into membership.
- (ii) the organisation has a stated commitment to the promotion of VIRTUS and support of sport for persons with intellectual impairment;
- (iii) the organisations constitution shall provide for the participation of its members in the governing of the organisation and in the establishment of its policies;
- (iv) the organisation shall not limit its activities, or participation therein, for reasons of race, colour, sex or sexual inclination, language, religion, disability or political ideology nor shall it discriminate on any other ground;
- (v) the organisation shall be competent to fulfil the obligations of membership, including the payment of the annual subscription.

#### 10.5. National Federations

**10.5.1.** National Federations of sport may become members of the Organisation only where there is no National Member Organisation.

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**10.5.2.** National Federations are those organisations recognised by their respective International Federation and shall fulfil the criteria set out in 10.5.3

**10.5.3.** The above-mentioned organisations shall fulfil the following criteria:

- (i) only one organisation per sport per nation shall be admitted into membership.
- (ii) the organisation has a stated commitment to the promotion of VIRTUS and support of sport for persons with intellectual impairment;
- (iii) the organisations constitution shall provide for the participation of its members in the governing of the organisation and in the establishment of its policies;
- (iv) the organisation shall not limit its activities, or participation therein, for reasons of race, colour, sex or sexual inclination, language, religion, disability or political ideology nor shall it discriminate on any other ground;
- (v) the organisation shall be competent to fulfil the obligations of membership, including the payment of the annual subscription.

**10.5.4.** National Federations shall relinquish membership where a National Member Organisation is established.

#### **10.6. Individual Members**

**10.6.1.** Individual Membership is open to any person who wishes to support the work of the organisation.

#### **10.7. Other categories of membership**

**10.7.1.** The Governing Board may create additional categories of non-voting membership, and may determine the rights and obligations of any such members (including payment of membership fees), and the conditions for admission to, and termination of membership of any such class of members.

**10.7.2.** Other references in this constitution to “members” and “membership” do not apply to non-voting members, and non-voting members do not qualify as members for any purpose under the Charities Acts, General Regulations or Dissolution Regulations.

#### **10.8. Applying for membership – National Member Organisations, VIRTUS Regions, National and International Federations**

**10.8.1.** The Governing Board:

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- (i) require applications for membership to be made on the organisations membership application form
- (ii) shall, if they approve an application for membership, notify the applicant of their decision within 56 days, granting 'provisional membership'
- (iii) will present provisional members for ratification to the next General Assembly after which full membership or associate membership shall be granted. Where an organisation has not yet met the criteria to achieve Full or Associate membership, provisional membership may be extended for a period of two (2) years
- (iv) may refuse an application for membership if they believe that it is in the best interests of the Organisation for them to do so;
- (v) shall, if they decide to refuse an application for membership, give the applicant their reasons for doing so, within 21 days of the decision being taken, and give the applicant the opportunity to appeal against the refusal; and
- (vi) shall give fair consideration to any such appeal, and shall inform the applicant of their decision, but any decision to confirm refusal of the application for membership shall be final.

**10.8.2.** Immediately after the decision to approve an organisation as a member, the organisation shall have all relevant rights as included in this constitution.

#### **10.9. Applying for membership – Individual Members**

**10.9.1.** A simple membership subscription service will be established.

#### **10.10. Transfer of membership**

**10.10.1.** Membership of the Organisation cannot be transferred to anyone else without the prior approval of the Governing Board.

#### **10.11. Duty of member organisations**

**10.11.1.** It is the duty of each member of the Organisation to exercise his or her powers as a member of the Organisation in the way he or she decides in good faith would be most likely to further the purposes of the Organisation.

#### **10.12. Rights of Members**

**10.12.1.** Voting Members shall be entitled to send two (2) delegates, designated in advance, to the General Assembly. Subject to prior notification to and approval of the Governing Board, any Member may send observers.

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**10.12.2.** Each Voting Member shall have one (1) vote in the General Assembly.

**10.12.3.** National Member Organisations and National Federations may enter their athletes and representatives for international competitions, events, seminars and conferences. In the case of competitions entries must meet the conditions of the invitation.

**10.12.4.** A National Member Organisation, VIRTUS Region or International Federation may propose motions to the General Assembly and the trustees concerning:

- (i) the development of sports for persons with intellectual disability; and
- (ii) other matters relevant to the Organisation and its bodies.

**10.12.5.** In certain mainstream sports, some “countries within a country” participate at an international level. A National Member Organisation may be granted discretion to enter independent teams for events where this occurs.

#### **10.13. Suspension and Termination of membership**

**10.13.1.** Membership of the Organisation comes to an end if:

- (i) the Member ceases to exist or to meet the eligibility requirements set out in 10.2 to 10.6 above.
- (ii) the Member sends written notice of termination to the trustees; or

**10.13.2.** Membership of the Organisation may be suspended by the Governing Board if:

- (i) the Member acts contrary to the constitution, regulations or decisions of the Organisation or if the member prejudices the Organisation in an unreasonable way.
- (ii) any sum of money owed by the member to the Organisation is not paid in full within six months of its falling due;

**10.13.3.** Membership of the Organisation may be terminated if:

- (i) the Member does not take steps to rectify the terms of a suspension.
- (ii) the Governing Board decide that it is in the best interests of the Organisation that the Member in question should be removed from membership, and pass a resolution to that effect.

**10.13.4.** A motion for termination of membership may be submitted to the General Assembly by the Governing Board or by at least five (5) full member

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organisations. Two thirds (2/3) of the Members present must approve the motion.

**10.13.5.** When membership ends the annual subscription for the entire year is still due.

**10.13.6.** Before the Governing Board take any decision to suspend or terminate membership of the Organisation they must:

- (i) inform the Member of the reasons why it is proposed;
- (ii) give the Member at least 21 clear days notice in which to make representations to the Governing Board as to why it should not be removed from membership;

**10.13.7.** Suspended and terminated Members lose their rights as Members of the Organisation.

#### **10.14. Membership fees**

**10.14.1.** Members shall pay an annual subscription the amount of which shall be determined by the General Assembly for a period of two (2) years.

**10.14.2.** If an organisation is granted membership in the course of a year, it shall pay in that year a subscription proportional to the remaining part of the year.

**10.14.3.** Annual subscriptions shall be payable during the first ninety (90) days of the year in question

#### **10.15. General provisions**

**10.15.1.** Except for those decisions that must be taken in a particular way as indicated in sub-clause 10.18 of this clause, decisions of the members of the Organisation may be taken either by vote at a general meeting as provided in 10.16 of this clause or by written resolution as provided in sub-clause 10.17 of this clause.

#### **10.16. Taking ordinary decisions by vote**

**10.16.1.** Subject to sub-clause 10.18 of this clause, any decision of the members of the Organisation may be taken by means of a resolution at a general assembly. Such a resolution may be passed by a simple majority of votes cast at the meeting.

#### **10.17. Taking ordinary decisions by written resolution without a general meeting**

**10.17.1.** Subject to sub-clause 10.18 of this clause, a resolution in writing agreed by a simple majority of all the members who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective, provided that:

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- (i) a copy of the proposed resolution has been sent to all the members eligible to vote; and
- (ii) a simple majority of members has signified its agreement to the resolution in a document or documents which are received at the principal office within the period of 28 days beginning with the circulation date. The document signifying a member's agreement must be authenticated by their signature (or in the case of an organisation which is a member, by execution according to its usual procedure), by a statement of their identity accompanying the document, or in such other manner as the Organisation has specified.

**10.17.2.** The resolution in writing may comprise several copies to which one or more members has signified their agreement.

**10.17.3.** Eligibility to vote on the resolution is limited to members who are members of the Organisation on the date when the proposal is first circulated in accordance with paragraph (a) above.

**10.17.4.** Not less than 10% of the members of the Organisation may request the trustees to make a proposal for decision by the members.

**10.17.5.** The Governing Board must within 21 days of receiving such a request comply with it if:

- (i) The proposal is not frivolous or vexatious, and does not involve the publication of defamatory material;
- (ii) The proposal is stated with sufficient clarity to enable effect to be given to it if it is agreed by the members; and
- (iii) Effect can lawfully be given to the proposal if it is so agreed.

**10.17.6.** Sub-clauses (i) to (iii) of this clause apply to a proposal made at the request of members.

#### **10.18. Decisions that must be taken in a particular way**

**10.18.1.** Any decision to remove a trustee must be taken in accordance with Article 12.7.2.

**10.18.2.** Any decision to amend this constitution must be taken in accordance with Article 18 of this constitution (Amendment of Constitution).

**10.18.3.** Any decision to wind up or dissolve the Organisation must be taken in accordance with Article 19 of this constitution (Voluntary winding up or dissolution). Any decision to amalgamate or transfer the undertaking of the

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Organisation to one or more other Organisations must be taken in accordance with the provisions of the Charities Act 2011.

#### 11. THE GENERAL ASSEMBLY

**11.1.1.** Every two years, not later than six (6) months after the end of the Federation's year, a General Assembly shall be held.

**11.1.2.** At this meeting the General Assembly shall:

- (i) determine the general policies of the Organisation towards achieving its aims;
- (ii) receive and vote upon the annual reports and the rendering thereof
- (iii) elect the Governing Board
- (iv) appoint the Elections Committee
- (v) determine the amount of the membership fee
- (vi) decide on recommendations and motions of the Governing Board or Members;
- (vii) decide on applications for membership and, if necessary, on the expulsion of members;
- (viii) decide on amendments to the constitution;
- (ix) approve the bye-laws;
- (x) take other decisions as necessary.

#### 11.2. Calling the General Assembly

**11.2.1.** The Governing Board :

- (i) must call the General Assembly of the Members of the Organisation in accordance with Article 11.1 of this clause, and identify it as such in the notice of the meeting; and
- (ii) may call any other General Assembly of the members at any time.

**11.2.2.** The Governing Board must, within 28 days, hold a general meeting of the members of the Organisation if :

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- (i) they receive a request to do so from at least 10% of the members of the Organisation (no more than half of which should be from any one region); and
- (ii) the request states the general nature of the business to be dealt with at the meeting, and is authenticated by the member(s) making the request.

**11.2.3.** Any such request may include particulars of a resolution that may properly be proposed, and is intended to be proposed, at the meeting.

**11.2.4.** A resolution may only properly be proposed if it is lawful, and is not defamatory, frivolous or vexatious.

**11.2.5.** Any General Assembly called by the trustees at the request of the members of the organisation must be held within 28 days from the date on which it is called.

**11.2.6.** If the Governing Board fail to comply with this obligation to call a general meeting at the request of its members, then the members who requested the meeting may themselves call a General Assembly

**11.2.7.** A General Assembly called in this way must be held not more than 3 months after the date when the members first requested the meeting.

**11.2.8.** The organisation must reimburse any reasonable expenses incurred by the members calling a general meeting by reason of the failure of the Governing Board to duly call the meeting, but the organisation shall be entitled to be indemnified by the Governing Board who were responsible for such failure.

#### **11.3. Notice of general meetings**

**11.3.1.** The Governing Board, or, as the case may be, the relevant members of the organisation, must give at least 14 clear days notice of any general assembly to all of the members.

**11.3.2.** If it is agreed by not less than 90% of all members of the Organisation, any resolution may be proposed and passed at the meeting even though the requirements of sub-clause 11.4.1 of this clause have not been met. This sub-clause does not apply where a specified period of notice is strictly required by another clause in this constitution, by the Charities Act 2011 or by the General Regulations.

**11.3.3.** The notice of any general meeting must:

- (i) state the time and date of the meeting;
- (ii) give the address at which the meeting is to take place;

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- (iii) give particulars of any resolution which is to be moved at the meeting, and of the general nature of any other business to be dealt with at the meeting; and
- (iv) if a proposal to alter the constitution of the Organisation is to be considered at the meeting, include the text of the proposed alteration;
- (v) include, with the notice for the General Assembly the statement of accounts and annual report, details of persons standing for election or re- election as trustee, or where allowed under clause 12.14 (Participation in meetings by electronic means) details of where the information may be found on the Organisation's website.

**11.3.4.** Proof that an envelope containing a notice was properly addressed, prepaid and posted; or that an electronic form of notice was properly addressed and sent, shall be conclusive evidence that the notice was given. Notice shall be deemed to be given 48 hours after it was posted or sent.

**11.3.5.** The proceedings of a meeting shall not be invalidated because a member who was entitled to receive notice of the meeting did not receive it because of accidental omission by the Organisation.

#### **11.4. Chairing of General Assemblies**

**11.4.1.** The elected President, shall, if present at the general assembly and willing to act, preside as chair of the meeting. Subject to that, the Vice President will act a Chair, and in their absence, the members of the Organisation who are present at a general meeting shall elect a chair to preside at the meeting.

#### **11.5. Quorum at General Assembly**

**11.5.1.** No business may be transacted at any general assembly unless a quorum is present when the meeting starts.

**11.5.2.** Subject to the following provisions, the quorum for general meetings shall be one-third of the voting Members.

**11.5.3.** If the meeting has been called by or at the request of the members and a quorum is not present within 15 minutes of the starting time specified in the notice of the meeting, the meeting is closed.

**11.5.4.** If the meeting has been called in any other way and a quorum is not present within 15 minutes of the starting time specified in the notice of the meeting, the chair must adjourn the meeting. The date, time and place at which the meeting will resume must either be announced by the chair or be notified to

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the Organisation's members at least seven clear days before the date on which it will resume.

**11.5.5.** If a quorum is not present within 15 minutes of the start time of the adjourned meeting, the member or members present at the meeting constitute a quorum.

**11.5.6.** If at any time during the meeting a quorum ceases to be present, the meeting may discuss issues and make recommendations to the trustees but may not make any decisions. If decisions are required which must be made by a meeting of the members, the meeting must be adjourned.

#### **11.6. Voting at General Assembly**

**11.6.1.** Any decision other than one falling within Article 10.18 (Decisions that must be taken in a particular way) shall be taken by a simple majority of votes cast at the meeting. Every full member has one vote.

**11.6.2.** Voting by proxy is not permitted.

**11.6.3.** Decisions on amendments to the constitution, dissolution of the Federation and expulsion or suspension of members shall be taken in accordance with the relevant articles;

**11.6.4.** A resolution put to the vote of a meeting shall be decided on a show of hands, unless (before or on the declaration of the result of the show of hands) a poll is duly demanded. A poll may be demanded by the chair or by at least 10% of the members present at the meeting.

**11.6.5.** A poll demanded on the election of a person to chair the meeting or on a question of adjournment must be taken immediately. A poll on any other matter shall be taken, and the result of the poll shall be announced, in such manner as the chair of the meeting shall decide, provided that the poll must be taken, and the result of the poll announced, within 30 days of the demand for the poll.

**11.6.6.** A poll may be taken :

- (i) at the meeting at which it was demanded; or
- (ii) at some other time and place specified by the chair; or
- (iii) through the use of postal or electronic communications.

**11.6.7.** In the case of an equal vote, the Chair shall have a casting vote, except in the case of elections, in which case a second ballot shall be held. If an equal vote occurs again the election shall take place by drawing lots by the nominated

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persons. Two lots. One is blank. One is marked with X. The person who draws the lot with X shall be elected.

**11.6.8.** Any objection to the qualification of any voter must be raised at the meeting at which the vote is cast and the decision of the chair of the meeting shall be final.

#### **11.7. Adjournment of meetings**

**11.7.1.** The chair may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting to another time and/or place. No business may be transacted at an adjourned meeting except business which could properly have been transacted at the original meeting.

#### **11.8. The Elections Committee**

**11.8.1.** The Elections Committee shall be elected by the General Assembly prior to Governing Board elections;

**11.8.2.** It is the duty of the Elections Committee to enquire of the eligible Members and of the Governing Board as to possible candidates to be proposed to the General Assembly for election to the Governing Board.

**11.8.3.** The Governing Board will establish the terms and conditions on which the Elections Committee will operate and these will be detailed in the organisation by-laws.

### **12. THE GOVERNING BOARD**

**12.1.1.** The Governing Board shall manage the affairs of the Organisation and may for that purpose exercise all the powers of the Organisation. It is the duty of each Board member:

- (i) to exercise his or her powers and to perform his or her functions as a board member of the Organisation in the way he or she decides in good faith would be most likely to further the purposes of the Organisation; and
- (ii) to exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:
- (iii) any special knowledge or experience that he or she has or holds himself or herself out as having; and
- (iv) if he or she acts as a board member of the Organisation in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

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#### 12.2. Eligibility to join the Governing Board

**12.2.1.** Every Governing Board member must be a natural person.

**12.2.2.** No one may be appointed as a Governing Board member:

- (i) if he or she is under the age of 16 years; or
- (ii) if he or she would automatically cease to hold office under the provisions of Article 12.7

**12.2.3.** No one is entitled to act as a Governing Board member whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the trustees decide, his or her acceptance of the office of charity trustee.

**12.2.4.** At least 75% of the Governing Board must be 18 years of age or over. If there is no board member aged at least 18 years, the remaining board members may act only to call a meeting of the board or appoint a new board member.

**12.2.5.** No individual may hold more than 1 Governing Board post at any one time.

#### 12.3. Governing Board structure

**12.3.1.** The Governing Board consists of the following officers:

- (i) The President
- (ii) The Vice President
- (iii) The Secretary General
- (iv) Members at Large
- (v) Up to 3 co-opted members (non-voting)

**12.3.2.** The first charity Trustees are:

- (i) Marc Truffaut
- (ii) Robyn Smith
- (iii) Barry Holman
- (iv) Fausto Pereira
- (v) Linnea Bjondahl

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- (vi) Emma De La Cruz
- (vii) Amal Mobadda
- (viii) Paul Charnvit
- (ix) Patrick Chan
- (x) Jan Burns

#### **12.4. Appointment of Governing Board**

**12.4.1.** VIRTUS Regions will each provide a number of nominees to the Governing Board defined by the number of VIRTUS Member Organisations in good standing in that Region as at 31st December in the year before the General Assembly, among whom a ballot will be held to determine the Honorary Offices. The number of nominees per Region are defined as follows;

- (i) Up to 10 National Member Organisations in good standing in the Region: 1 nominee
- (ii) 11 – 20 National Member Organisations in good standing in the Region: 2 nominees
- (iii) 21 or more National Member Organisations in good standing in the Region: 3 nominees

**12.4.2.** Nominees must be from different member organisations. No nation may have more than one non-co-opted member on the board at any time.

**12.4.3.** Nominations must be endorsed by the highest decision-making body of the Region (i.e. regional General Assembly or equivalent providing all member countries in the region their democratic right to influence such a decision).

**12.4.4.** No more than 1 Honorary Position shall be held by any 1 Region.

**12.4.5.** The General Assembly shall vote to approve the Honorary Board Members

**12.4.6.** Members of the Governing Board shall serve for a period of four (4) years with  $\frac{1}{2}$  stepping down every 2 years

**12.4.7.** Members may serve for a maximum of 2 consecutive terms, before stepping down for a period of at least 1 cycle (2 years).

**12.4.8.** The National Member Organisations in VIRTUS Regions may at any time decide to appoint a new Governing Board member, whether in place of a member who has retired or been removed in accordance with Article 12.7 (Retirement and removal of trustees.) Any such new appointment must be done by the highest

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decision-making body of the Region (i.e. regional General Assembly or equivalent providing all member countries in the region their democratic right to influence such a decision).

**12.4.9.** Any person who has previously served on the VIRTUS Governing Board under a previous constitution shall be eligible to stand under the new constitution.

#### **12.5. Appointment of ex-officio (co-opted) Members of the Governing Board**

**12.5.1.** The Governing Board will appoint up to 3 ex-officio (co-opted) Members.

**12.5.2.** Members will be appointed according to particular skills and experience through an open process of recruitment.

**12.5.3.** Co-Opted Members of the Governing Board shall serve for a period of four (4) years with at least 1 stepping down every 2 years

#### **12.6. Information for new Governing Board members**

**12.6.1.** The Governing Board will make available to each new board member, on or before his or her first appointment:

- (i) a copy of this constitution and any amendments made to it; and
- (ii) a copy of the Organisation's latest trustees' annual report and statement of accounts.

#### **12.7. Retirement and removal of Governing Board members**

**12.7.1.** A board member ceases to hold office if he or she:

- (i) retires by notifying the Organisation in writing (but only if enough trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings);
- (ii) is absent without the permission of the Governing Board from all their meetings held within a period of 12 (twelve) months and the board resolve that his or her office be vacated;
- (iii) dies;
- (iv) becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs;
- (v) is removed by the Members of the Organisation in accordance with Article 12.8.2; or

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(vi) is disqualified from acting as a charity trustee by virtue of section 178-180 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).

(vii) comes to the natural end of their term of office

**12.7.2.** A Governing Board member shall be removed from office if a resolution to remove that board member is proposed at a general meeting of the members called for that purpose and properly convened and the resolution is passed by a two-thirds majority of votes cast at the meeting.

**12.7.3.** A resolution to remove a Governing Board member in accordance with this clause shall not take effect unless the individual concerned has been given at least 14 clear days' notice in writing that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been given a reasonable opportunity of making oral and/or written representations to the members of the Organisation.

#### **12.8. Reappointment of Governing Board members**

**12.8.1.** Any person who retires as a board member by rotation or by giving notice to the Organisation is eligible for re-appointment. However, they are eligible for re-election to the Governing Board for one further period of maximum four (4) years only and may only be reappointed after an interval of at least two years.

#### **12.9. Taking of decisions by the Governing Board**

**12.9.1.** Any decision may be taken either:

- (i) at a meeting of the trustees; or
- (ii) by resolution in writing or electronic form agreed by all of the Governing Board, which may comprise either a single document or several documents containing the text of the resolution in like form to each of which one or more board members has signified their agreement.

**12.9.2.** All decisions of the Governing Board shall be taken by an absolute majority of votes cast. In the case of an equal vote the proposal shall be rejected.

#### **12.10. Delegation by the Governing Board**

**12.10.1.** The Governing Board may delegate any of their powers or functions to a committee or committees, and, if they do, they must determine the terms and conditions on which the delegation is made. The Governing Board may at any time alter those terms and conditions, or revoke the delegation.

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**12.10.2.** This power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the Governing Board, but is subject to the following requirements -

**12.10.3.** a committee may consist of two or more persons

- (i) the acts and proceedings of any committee must be brought to the attention of the Governing Board as a whole as soon as is reasonably practicable; and
- (ii) the Governing Board shall from time to time review the arrangements which they have made for the delegation of their powers.

#### **12.11. Meetings and proceedings of Governing Board**

**12.11.1.** Meetings of the Governing Board will normally be called by the President.

**12.11.2.** Meetings may also be called at the request of at least five (5) Governing Board members.

**12.11.3.** Subject to that, the Governing Board shall decide how their meetings are to be called, and what notice is required.

#### **12.12. Chairing of meetings**

**12.12.1.** The President will normally Chair the meetings. If he/she is not present within 10 minutes after the time of the meeting, the Governing Board present may appoint one of their number to chair that meeting.

#### **12.13. Procedure at meetings**

**12.13.1.** No decision shall be taken at a meeting unless a quorum is present at the time when the decision is taken. The quorum is one third of the total number of the Governing Board. A board member shall not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote.

#### **12.14. Participation in meetings by electronic means**

**12.14.1.** A meeting may be held by suitable electronic means agreed by the trustees in which each participant may communicate with all the other participants.

**12.14.2.** Any Governing Board member participating at a meeting by suitable electronic means agreed by the trustees in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting.

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**12.14.3.** Meetings held by electronic means must comply with rules for meetings, including chairing and the taking of minutes.

#### 13. GENERAL

**13.1.1.** The Organisation will comply with the requirements of the Communications Provisions in the General Regulations and in particular:

- (i) the requirement to provide within 21 days to any member on request a hard copy of any document or information sent to the member otherwise than in hard copy form;
- (ii) any requirements to provide information to the Commission in a particular form or manner.

#### 14. MINUTES

**14.1.1.** The Governing Board must keep minutes of all:

- (i) appointments of officers made by the board;
- (ii) proceedings at General Assembly meetings of the Organisation;
- (iii) meetings of the Governing Board and sub-committees including:
  - a. the names of those present at the meeting;
  - b. the decisions made at the meetings; and
  - c. where appropriate the reasons for the decisions;

**14.1.2.** decisions made by the Governing Board otherwise than in meetings.

#### 15. ACCOUNTING RECORDS, ACCOUNTS, ANNUAL REPORTS AND RETURNS, REGISTER MAINTENANCE

**15.1.1.** The Governing Board must comply with the requirements of the Charities Act 2011 with regard to the keeping of accounting records, to the preparation and scrutiny of statements of accounts, and to the preparation of annual reports and returns. The statements of accounts, reports and returns must be sent to the Charity Commission, regardless of the income of the Organisation, within 10 months of the financial year end.

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- 15.1.2.** The Governing Board must comply with their obligation to inform the Commission within 28 days of any change in the particulars of the Organisation entered on the Central Register of Charities.

#### 16. RULES

- 16.1.1.** The Governing Board may from time to time make such reasonable and proper rules or bye laws as they may deem necessary or expedient for the proper conduct and management of the Organisation, but such rules or bye laws must not be inconsistent with any provision of this constitution. Copies of any such rules or bye laws currently in force must be made available to any member of the Organisation on request.

#### 17. DISPUTES

- 17.1.1.** If a dispute arises between members of the Organisation about the validity or propriety of anything done by the members under this constitution, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

#### 18. AMENDMENT OF CONSTITUTION

- 18.1.1.** As provided by clauses 224-227 of the Charities Act 2011:
- (i) This constitution can only be amended by a resolution passed by a majority of two-thirds of votes cast at a general meeting of the members of the Organisation.
- 18.1.2.** Any alteration of Article 4, Article 19, this clause, or of any provision where the alteration would provide authorisation for any benefit to be obtained by trustees or members of the Organisation or persons connected with them, requires the prior written consent of the Charity Commission.
- 18.1.3.** No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.
- 18.1.4.** A copy of any resolution altering the constitution, together with a copy of the Organisation's constitution as amended, must be sent to the Commission within 15 days from the date on which the resolution is passed. The amendment does not take effect until it has been recorded in the Register of Charities.

#### 19. VOLUNTARY WINDING UP OR DISSOLUTION

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**19.1.1.** As provided by the Dissolution Regulations, the Organisation may be dissolved by resolution of its members. Any decision by the members to wind up or dissolve the Organisation can only be made:

- (i) at a General Assembly of the Members of the Organisation of which not less than 14 days' notice has been given to those eligible to attend and vote:
  - a. by a resolution passed by a two-thirds majority of those voting, or
  - b. by a resolution passed by decision taken without a vote and without any expression of dissent in response to the question put to the general meeting; or

**19.1.2.** by a resolution agreed in writing by all members of the Organisation.

**19.2.** Subject to the payment of all the Organisation's debts:

**19.2.1.** Any resolution for the winding up of the Organisation, or for the dissolution of the Organisation without winding up, may contain a provision directing how any remaining assets of the Organisation shall be applied.

**19.2.2.** If the resolution does not contain such a provision, the trustees must decide how any remaining assets of the Organisation shall be applied.

**19.2.3.** In either case the remaining assets must be applied for charitable purposes the same as or similar to those of the Organisation.

**19.2.4.** The Organisation must observe the requirements of the Dissolution Regulations in applying to the Commission for the Organisation to be removed from the Register of Charities, and in particular:

- (i) the trustees must send with their application to the Commission:
  - (a) a copy of the resolution passed by the members of the Organisation;
  - (b) a declaration by the trustees that any debts and other liabilities of the Organisation have been settled or otherwise provided for in full; and
  - (c) a statement by the trustees setting out the way in which any property of the Organisation has been or is to be applied prior to its dissolution in accordance with this constitution;
- (ii) the trustees must ensure that a copy of the application is sent within seven days to every member and employee of the Organisation, and to any board member of the Organisation who was not privy to the application.

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**19.2.5.** If the Organisation is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.

#### 20. INTERPRETATION

**20.1.** In this constitution: “connected person” means:

**20.1.1.** a child, parent, grandchild, grandparent, brother or sister of the Governing Board member;

**20.1.2.** the spouse or civil partner of the Governing Board member or of any person falling within sub-clause 20.1.1 above;

**20.1.3.** a person carrying on business in partnership with the Governing Board member or with any person falling within sub-clause (a) or (b) above;

**20.1.4.** an institution which is controlled –

(i) by the Governing Board member or any connected person falling within sub-clause 20.1.1, 20.1.2 or 20.1.3 above; or

(ii) by two or more persons falling within sub-clause (20.1.4)(i), when taken together

**20.1.5.** a body corporate in which –

(i) the Governing Board member or any connected person falling within sub-clauses 20.1.1, 20.1.2 or 20.1.3 has a substantial interest; or

(ii) two or more persons falling within sub-clause 20.1.5 (i) who, when taken together, have a substantial interest.

**20.2.** Section 118 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this constitution.

**20.3.** “General Regulations” means the Charitable Incorporated Organisations (General) Regulations 2012.

**20.4.** “Dissolution Regulations” means the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.

**20.5.** The “Communications Provisions” means the Communications Provisions in [Part 10, Chapter 4] of the General Regulations.

**20.6.** “Governing Board member” or “board member” means a Governing Board member/trustee of the Organisation.

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**20.7.** A “poll” means a counted vote or ballot, usually (but not necessarily) in writing.